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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

CASTELLANO, STEPHEN J

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 11/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/781,986

Applicant(s)

MOORMAN ET AL.

Examiner

Stephen J. Castellano

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-44 is/are rejected.
- 7) ☒ Claim(s) 37-44 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>11-29-04, 9-15-05</u> . | 6) <input type="checkbox"/> Other: _____ |

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Claims 1-44 are pending.

Claims 37-44 are objected to because claim 37 ends awkwardly with an awkward grammatical phrase "at least one wall a base."

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6, 13-16, 19-26, 31, 32 and 35-44 are rejected under 35 U.S.C. 102(b) as being anticipated by Foy et al. ('255) (Foy).

Foy discloses a collapsible container with a base and hinged sidewalls and end walls.

For claim 1, a wall latching system is defined by a male latch member (projection 104) which extends from the sidewalls and a female latch member (groove 106) which extends within the end walls, a wall locking system is defined by the two uppermost locking tabs 68 on sidewall 16 (indicative of a plurality of first wall locking members on a first sidewall) and two uppermost delta shaped openings 84 on end wall 20 (indicative of at least one second wall locking member of the first end wall) as shown in Fig. 3 and a wall alignment system including a first member (one of the two lowermost delta shaped openings 84) extending inwardly towards an interior of the container from an end wall and a second member (the locking tab 68 which corresponds to the one lowermost delta shaped opening 84) extending from a sidewall as shown in Fig. 3 such that the first member 84 receives the second member 68 as the sidewall 16 pivots to an upright position.

For claim 23, the wall latching system and the wall alignment system are as discussed for claim 1, no wall locking system is necessary. The wall alignment system includes a first member (either delta shaped openings 84 or portions of the flange 83 that includes stop surfaces 86 and 88 and which surround the openings 84) extend away from an interior face of the end wall 20 and toward an interior of the container and a pair of receiving members (locking tabs 68) extending away from an edge face that faces end wall 20 of the sidewall 16 and toward an interior of the container since one could traverse the locking tab from the exterior face of the sidewall towards the interior, the receiving members (locking tabs) forming an opening along the edge face that faces end wall 20 of the sidewall 16 for slidably receiving the first member when the sidewall and end wall are being to an upright position. This could be defined as a first interpretation of the wall alignment feature.

A second interpretation of the wall alignment system of claim 23 is defined as including a first member (locking tab 68) extend away from an edge face of the sidewall 16 and toward an interior of the container and a pair of receiving members (either delta shaped openings 84 or portions of the flange 83 that include stop surfaces 6 and 88 and which surround the openings) extending away from an interior face of the end wall 20 and toward an interior of the container, the receiving members forming an opening 84 along the interior face of the end wall 20 for slidably receiving the first member 68 when the sidewall and end wall are being to an upright position.

For claim 37, Foy discloses a hinging system which is separate from a support system, the support system includes support members and support receiving members. The end wall 20 and 22, as well as, the sidewalls 16 and 18, all include first and second ends having first and

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second end surfaces that extend perpendicular to the length of the respective end wall or sidewall. Although the hinge system includes similar parts as the support system, no portion of the hinge system overlaps with the support system and no portion of the support system overlaps with the hinge system. The hinge system includes a plural hinging members (two centermost tongues 27 as shown in Fig. 5) and a pivot axis as defined by rod 50 as it extends through hinge hole 48. The support system includes support members (either tongues 27 closest to the side edges of the wall or the portions separating grooves 29 closest to the side edges on the base) and support receiving members (either grooves 29 closest to the side edges on the base or the space between tongues 27 closest to the side edges of the wall, respectively). Note that the support member and the support receiving member doesn't need to include the entire tongue or groove but only that portion which will disengage when the wall is in the folded position.

Claims 37-44 are rejected under 35 U.S.C. 102(b) as being anticipated by Furtner.

Furtner discloses prestressing or holding back device 86 including extension 78 and recess 79 in addition to a hinge system. The protrusion or extension extends away from the lower surface of the first sidewall and the recess or support receiving member includes an opening in the base. Furtner discloses each support member (extension) and support receiving member (recess) being positioned between an outermost surface of an outermost hinging member and one of the ends of the wall as the extension and recess positioned inwardly of a hinge are between the opposite end and the hinge.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5, 6, 15, 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Overholt et al. ('056) (Overholt) in view of Foy.

Overholt discloses a collapsible container with a base and hinged side walls and end walls, corresponding latching members (66, 76), corresponding locking system (86, 88) and corresponding aligning system (82, 84). Overholt discloses the invention except for the specifics of the alignment system, hinge system and support system. Foy teaches the alignment system, hinge system and support system. It would have been obvious to modify the alignment system, hinge system and support system in order to provide easier to use alignment system, a stronger hinge system and a more stable and stronger support system.

Re claim 1, Overholt discloses the invention except for the first member extends along an inwardly facing surface such that the first member cooperates with the second member as the second sidewall or endwall pivots to an upright position. Foy teaches an alignment system which includes groove 84 (first member) extending from a first wall and which extends along an inwardly facing surface of the first wall and a tab 68 (second member) extending from a second wall, the groove extends such that the groove cooperates with the tab as the second wall pivots to an upright position to align the adjacent first and second walls. It would have been obvious to replace the member 84 of Overholt with tabs 68 of Foy and to replace member 82 of Overholt with grooves 84 of Foy in order to provide an alignment system that engages sequentially from the bottommost tab/groove to the topmost tab/groove thus assuring that the relative position of the adjacent walls with respect to each other is aligned at more than a single vertical location.

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Re claims 1-3, Overholt discloses the invention except for the first member extends along an inwardly facing surface such that the first member cooperates with the second member as the second sidewall or endwall pivots to an upright position. Foy teaches an alignment system which includes tabs or spurs that extend between adjacent grooves 84 (first member), the tabs extending from a first wall and which extends along an inwardly facing surface of the first wall and grooves that extend between the tabs 68 (second member), the grooves extending from a second wall, the groove extends such that the groove cooperates with the tab as the second wall pivots to an upright position to align the adjacent first and second walls. It would have been obvious to replace the member 84 of Overholt with grooves of Foy and to replace member 82 of Overholt with tabs 84 of Foy in order to provide an alignment system that engages sequentially from the bottommost tab/groove to the topmost tab/groove thus assuring that the relative position of the adjacent walls with respect to each other is aligned at more than a single vertical location.

Re claims 5 and 6, latch 66 is a first sidewall latching member which is a plate, there are two latches on each sidewall and two latch receiving recesses 76 on each endwall.

Re claim 15, Overholt discloses the invention except for the dovetail joint for the locking system. Foy teaches dovetail joints. It would have been obvious to replace the wall lock with a dovetail joint to prevent the upright engaged adjacent walls from moving vertically with respect to one another.

Claims 19-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Overholt in view of Foy as applied to claim 1 above, and further in view of Furtner.

The combination discloses the invention except for the support members and receiving members. Furtner teaches prestressing or holding back device 86 including extension 78 and

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recess 79 in addition to a hinge system. The protrusion or extension extends away from the lower surface of the first sidewall and the recess or support receiving member includes an opening in the base. It would have been obvious to add the prestressing or holding back device to the hinges of Overholt in order to prevent the walls from prematurely falling outwardly from the upright position.

Claims 21 and 33-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Foy ('255).

Re claims 21 and 35, Foy discloses the invention except for the exclusion of hinge support members and receiving members between the two outermost hinges. It would have been obvious to remove the intermediate hinge components should the strength of the two outermost hinges be deemed to be strong enough to carry the full load of the side wall or end wall.

Re claims 33 and 34, Foy discloses the invention except for the stacking tabs and recesses. Official notice is taken that stacking tabs and recesses are well known in the stacking crate art. It would have been obvious to add a tabs and recesses to more stably stack crates to prevent slippage, falls and spillage of contents.

Claims 7-9, 11, 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Foy ('255) in view of Lessard.

Foy discloses the invention except for the biased panel. Lessard teaches biased panel (36, 38, 46). It would have been obvious to modify the latching member to include a biased panel in order to make it easier to latch the side and end walls at their corner juncture with a biased panel latch on one wall which will snap acting latch to engage the catch member on the adjacent wall

and making it possible to latch the walls without touching the latch, the latch is engaged through manipulation of the walls, only.

Claims 10, 12, 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Foy ('255) in view of Lessard as applied to claims 7, 11 and 27 above, and further in view of Overholt.

The combination discloses the invention except for the deformation prevention member. Overholt teaches a deformation prevention member as the wall behind the biased panel latch (83). It would have been obvious to add a wall behind the biased panel latch in order to prevent the latch from being pushed beyond the point of breakage.

Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Foy ('255) in view of Foy ('065).

Foy ('255) discloses the invention except for the stacking projections. Foy ('065) teaches stacking projections (62, 66, 68). It would have been obvious to add stacking projections in order to provide lock surfaces for preventing shifting movement that could topple a stack of containers.

Applicant's arguments filed March 2, 2005 have been fully considered but they are not persuasive. Applicant contends that it is clear from Fig. 3 that the delta-shaped openings 84 of Foy ('255) do not extend along an interior surface. The examiner believes that they do extend along an interior surface.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Castellano whose telephone number is 571-272-4535. The examiner can normally be reached on Tu-F 6:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Stephen J. Castellano
Primary Examiner
Art Unit 3727